

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARIO ALBERTO MEDRANO,
TDCJ-ID #1086181,
Plaintiff,

VS.

TOMMY THOMAS, ET AL.,
Defendants.

:
:
:
: CIVIL ACTION NO. H-02-2976
:
:
:

ORAL DEPOSITION OF

FRED PETRUSKA

AUGUST 9, 2005

Allied
ADVANCED
REPORTING
INCORPORATED

1647 COLQUITT HOUSTON, TEXAS 77006-5203

PH: 713.524.6777 FAX: 713.524.6888 TOLL FREE: 800.223.9409

EMAIL: AARI@ALLIEDADVANCEDREPORTING.COM

EXHIBIT
2

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<p style="text-align: right;">Page 77</p> <p>1 radio that the suspects had arrived?</p> <p>2 A I probably did. Yeah. I'm sure I did. As soon</p> <p>3 as they knocked on the door.</p> <p>4 Q Do you specifically recall whether you did that?</p> <p>5 A No, not specifically; but I'm sure I did.</p> <p>6 Q When was the first time that you saw Deputy</p> <p>7 Gideon that day?</p> <p>8 I'm sorry. That was -- obviously the first</p> <p>9 time you saw him was at least at the briefing meeting or</p> <p>10 before that.</p> <p>11 A Correct.</p> <p>12 Q After the briefing meeting, when was the next</p> <p>13 time that you saw Deputy Gideon that day?</p> <p>14 A When he approached me in the parking lot.</p> <p>15 Q You didn't see him in Room 247?</p> <p>16 A Never.</p> <p>17 Q Do you recall or can you estimate how much time</p> <p>18 went by between the first shots being fired and you and</p> <p>19 Deputy Sams getting the cuffs on Mr. Medrano?</p> <p>20 A Minutes. I don't know. Seemed like an eternity,</p> <p>21 but I'm sure it was just a matter of minutes.</p> <p>22 Q Do you know who else was in Room 247 at the time</p> <p>23 when Mr. Medrano went -- when Mr. Medrano went limp?</p> <p>24 A Myself and Sams is the only -- and Medrano were</p> <p>25 the only two. I'm sorry. The informant was in there, but</p>	<p style="text-align: right;">Page 79</p> <p>1 the back of the patrol car?</p> <p>2 A It would have to have been after because nobody</p> <p>3 was around him other than me and the uniformed patrol</p> <p>4 officer when I put him in the back of the car.</p> <p>5 Q Do you recall whether or not Mr. Medrano had</p> <p>6 blood on his face and his shirt when you put him in the</p> <p>7 back of the patrol car?</p> <p>8 A Yes. I noticed it as soon as I picked him up off</p> <p>9 the floor.</p> <p>10 Q You didn't know that Deputy Gideon was in</p> <p>11 Room 247 when you were struggling with Mr. Medrano. Is</p> <p>12 that right?</p> <p>13 A Correct.</p> <p>14 Q Did you ever ask anyone for help in subduing</p> <p>15 Mr. Medrano?</p> <p>16 A Never.</p> <p>17 Q Did Deputy Sams have his pistol drawn the entire</p> <p>18 time you were struggling with Mr. Medrano?</p> <p>19 A Honestly, I don't recall. I know he was helping</p> <p>20 me try and subdue him. I know I stuck mine in my pocket.</p> <p>21 What he did, I don't know. I don't recall.</p> <p>22 Q Do you recall Deputy Sams asking anyone for help</p> <p>23 with Mr. Medrano?</p> <p>24 A No.</p> <p>25 Q Did Deputy Sams ask you for help with</p>
<p style="text-align: right;">Page 78</p> <p>1 I didn't see him. And Eddie was in there, and I didn't</p> <p>2 see him either.</p> <p>3 Q Were Sergeant Miller and Officer Full in the room</p> <p>4 at that point?</p> <p>5 A I ran back in the room. I remember Sergeant</p> <p>6 Miller and Officer Full attending to Eddie giving him</p> <p>7 first aid. I don't recall if it was the first time I ran</p> <p>8 back in or the second time I ran back in. I'm wanting to</p> <p>9 say it was the first time, before I handcuffed him; but I</p> <p>10 don't recall.</p> <p>11 Q The second time that you went up to Room 247 --</p> <p>12 A Uh-huh.</p> <p>13 Q -- was that after you and the uniformed officer</p> <p>14 put Mr. Medrano into the patrol car?</p> <p>15 A Correct.</p> <p>16 Q Was that immediately after you put Mr. Medrano</p> <p>17 back in the patrol car?</p> <p>18 A Correct. I physically ran back to the room.</p> <p>19 Q I'm going to ask the reporter to mark this as</p> <p>20 Exhibit 3 and then ask you if you can identify this</p> <p>21 gentleman.</p> <p>22 (Petruska Exhibit No. 3 marked.)</p> <p>23 A That's Mr. Medrano.</p> <p>24 Q (By Mr. Olson) Do you recall, sir, if this</p> <p>25 picture was taken before or after you had placed him into</p>	<p style="text-align: right;">Page 80</p> <p>1 Mr. Medrano?</p> <p>2 A No.</p> <p>3 Q Do you recall seeing Officer Slot in Room 247?</p> <p>4 A Not at the time, no.</p> <p>5 Q Do you recall whether or not Officer Slot</p> <p>6 followed you and Deputy Sams into Room 247?</p> <p>7 A Not at the time, no.</p> <p>8 Q Was Gary Bordelon still in Room 247 when you and</p> <p>9 the uniformed officer took Mr. Medrano downstairs?</p> <p>10 A I honestly don't know. He would have to have</p> <p>11 been. It was (snapping fingers). Instantaneous, I mean.</p> <p>12 Cuffed him, picked him up, and walked him outside.</p> <p>13 Q Do you recall whether or not Mr. Bordelon was in</p> <p>14 Room 247 when you got back from putting Mr. Medrano in the</p> <p>15 patrol car?</p> <p>16 A I don't recall. All I was focused on was Eddie.</p> <p>17 All I wanted to do is get back and see how Eddie was. By</p> <p>18 then there was people everywhere. EMT's, detectives,</p> <p>19 patrolmen.</p> <p>20 Q Do you recall whether or not you saw Mr. Bordelon</p> <p>21 later that day?</p> <p>22 A I think I saw him at HPD later that day.</p> <p>23 Q Did you ever see him in Room 248 after all this</p> <p>24 had transpired?</p> <p>25 A I don't believe so, no.</p>

20 (Pages 77 to 80)

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<p style="text-align: right;">Page 61</p> <p>1 about the shots that Officer Slot was firing at Noe 2 Lopez -- what did you do next? 3 A I entered the room. 4 Q What's the next thing you remember after that? 5 A Well, let me back up. I called Eddie's name 6 prior to entering the room. I called out "Eddie." 7 Q What was the first thing you saw when you entered 8 the room? 9 A All I could see was just the top of the beds. I 10 was still in a crouched position. 11 Q Did you stand up? 12 A Yes. 13 Q What was the first thing you saw after you stood 14 up? 15 A I stood up, and I scanned from left to right. 16 The next thing I saw was Mr. Medrano in the bathroom 17 hiding behind the wall. 18 Q What did you do after you saw Mr. Medrano? 19 A I pointed my pistol at Mr. Medrano, and I shouted 20 out commands. I kept yelling at him, "Hands, hands, 21 hands. Let me see your hands." 22 Q What did Mr. Medrano do? 23 A Mr. Medrano was hiding behind the wall with his 24 weapon in his right hand in the ready position like this 25 (indicating) peeking out behind the wall. He would peek</p>	<p style="text-align: right;">Page 63</p> <p>1 (indicating), "Down. Get down. Get down." And he just 2 stood there. He didn't comply. 3 Q So we can get this on the record because we don't 4 have a videotape, when you say "like this," you're -- 5 A I'm holding my weapon in my right hand pointed at 6 Mr. Medrano giving him commands to get down, "down, down, 7 down." He's not complying. So, with my left arm and my 8 left hand, I'm motioning like this (indicating) "down. 9 Get down." 10 Q Pointing at him and then sweeping your arm 11 towards the floor? 12 A Correct, my left arm towards the floor motioning 13 for him to get down. 14 Q Like I told you right at the beginning, we 15 have -- 16 A I understand. 17 Q The only way we get to see this is to read it. 18 A I understand. 19 Q What did Mr. Medrano do after you told him to get 20 down? 21 A He just stood there and looked at me. 22 Q What did you do next? 23 A I walked up to him. I approached him. I grabbed 24 him with my left hand; and I pulled him towards me and to 25 my left, pushed him on the edge of the bed quickly.</p>
<p style="text-align: right;">Page 62</p> <p>1 out behind the wall, look at me, move back in, peek out 2 behind the wall, look at me, and move back in. 3 Q When you say his weapon was in the ready 4 position, you mean he was -- 5 A Had his weapon in his right hand. It was pointed 6 upward. And his left hand was just like this (indicating) 7 on his wrist. 8 Q His left hand was holding his right wrist? 9 A Correct. 10 Q Did he eventually leave the bathroom? 11 A Yes. 12 Q What did he do at that point? 13 A He stepped out from behind the wall and started 14 to yell, "Don't shoot, don't shoot." 15 Q Did you give him any additional commands? 16 A Yes. 17 Q And what did you tell him? 18 A I kept yelling at him "hands" because he still 19 had the weapon in his hands when he stepped out from 20 behind the wall. 21 Q What was the next thing that happened? 22 A He dropped the weapon. 23 Q After he dropped the weapon, what did you do? 24 A I continued to yell at him to get down. He 25 didn't comply. So, with my left hand I motioned like this</p>	<p style="text-align: right;">Page 64</p> <p>1 Q What was the next thing you remember happening 2 after that? 3 A After that I remember Sams coming in the room; 4 and I motioned to Sams to take him, take him (indicating). 5 Sams then took Medrano, put his pistol in the back of his 6 head and told him not -- screamed at him "Not to move, not 7 to move, not to move." At that time I turned around and I 8 saw Eddie Roberts. Prior to that, I didn't see him. He 9 was in the bathroom where Medrano was hiding. 10 Q After you saw Deputy Roberts, what did you do? 11 A I looked at him. I tried to see if he was 12 breathing. He was covered with blood. His pistol was 13 still in his hand. I didn't see any motion in his chest 14 as far as breathing whatsoever. My next reaction is to 15 call for help. I reached down. I don't have a radio 16 because I didn't have time to grab one. I ran out of the 17 room back to my room next door, 248, grabbed a radio to 18 call for help. 19 Q Was that the first time that anyone had announced 20 there was an officer down? 21 A Yes. I did not make that announcement. 22 Q Did you learn later that someone else had made 23 the -- 24 A As I entered the room, Deputy Craig Miller was 25 already on the radio putting out the assist requesting</p>

16 (Pages 61 to 64)

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<p style="text-align: right;">Page 65</p> <p>1 help.</p> <p>2 Q At that point once you have gone back into</p> <p>3 Room 248, do you know now where Deputy Oliver and Deputy</p> <p>4 Moreno were?</p> <p>5 A No. No. As soon as I saw Craig Miller on the</p> <p>6 radio, I knew that help was on the way. My next reaction</p> <p>7 was to secure Mr. Medrano. So, I grabbed my handcuffs</p> <p>8 from my bag and ran back into Room 247.</p> <p>9 Q Once you were back in room -- let me erase that.</p> <p>10 What was the first thing you saw when you</p> <p>11 got back to Room 247?</p> <p>12 A I saw Officer Craig Full and Sergeant Frank</p> <p>13 Miller attending Deputy Roberts administering first aid,</p> <p>14 at which time I jumped on Medrano's back and forced him to</p> <p>15 the floor.</p> <p>16 Q Was Deputy Sams still covering Mr. Medrano at</p> <p>17 that point?</p> <p>18 A Yes.</p> <p>19 Q Did he still have his pistol pointed at</p> <p>20 Mr. Medrano?</p> <p>21 A Yes.</p> <p>22 Q Was Deputy Sams doing anything besides pointing</p> <p>23 his pistol at Mr. Medrano?</p> <p>24 A When I entered the room, no. He was just</p> <p>25 pointing his pistol in the back of his head screaming at</p>	<p style="text-align: right;">Page 67</p> <p>1 A Correct.</p> <p>2 Q Were you saying anything to Medrano at this</p> <p>3 point?</p> <p>4 A "Give me your arms. Give me your hands. Hands.</p> <p>5 Let me have your hands."</p> <p>6 Q Do you recall whether Deputy Sams was saying</p> <p>7 anything at that point?</p> <p>8 A I don't recall.</p> <p>9 Q After you had gotten the cuff around his left</p> <p>10 hand, what's the next thing that you remember happening?</p> <p>11 A I was pulling on his right -- on his right area</p> <p>12 of his body, "Give me your hand. Give me your hand." He</p> <p>13 had his right arm in a crunched position, I assume,</p> <p>14 underneath his chest, underneath his body (indicating)</p> <p>15 laying flat in a prone position on the floor. "Give me</p> <p>16 your arm. Give me your arm."</p> <p>17 Q After you had yelled at him to give him your</p> <p>18 (sic) arm, what's the next thing you remember happening?</p> <p>19 A He wouldn't comply. He kept his arm underneath</p> <p>20 his chest. He started to come off the floor. He was</p> <p>21 pushing himself off the floor with me on his -- physically</p> <p>22 on his back. He started to push up off the floor -- come</p> <p>23 up off the floor. I couldn't control him. The next thing</p> <p>24 I know he went limp.</p> <p>25 Q Was Deputy Sams on Medrano's back at that point</p>
<p style="text-align: right;">Page 66</p> <p>1 him.</p> <p>2 Q Was he applying any pressure to Mr. Medrano to</p> <p>3 keep him down on the bed or anything like that?</p> <p>4 A When I went back into the room with the cuffs in</p> <p>5 my hand, I jumped on Mr. Medrano's back and forced him</p> <p>6 down to the floor.</p> <p>7 Q Before you did that, did you observe whether or</p> <p>8 not Deputy Sams had any pressure on Mr. Medrano or whether</p> <p>9 he was holding --</p> <p>10 A I don't have any idea. I know he had his pistol</p> <p>11 straight in his head. That's all I can recall.</p> <p>12 Q After you jumped on Mr. Medrano, what was the</p> <p>13 next thing that you did?</p> <p>14 A I grabbed his left arm and began to fight with</p> <p>15 him to get him handcuffed.</p> <p>16 Q Do you know what Deputy Sams was doing at that</p> <p>17 point?</p> <p>18 A He was assisting me one way or another. I don't</p> <p>19 know. Both of us were fighting with him to get the cuffs</p> <p>20 on him. I managed to get the handcuff on his left arm.</p> <p>21 Q Did you still have your pistol drawn at that</p> <p>22 time?</p> <p>23 A It was in my right pocket. My right pocket,</p> <p>24 front pocket (indicating).</p> <p>25 Q Your pistol was in your right front pocket?</p>	<p style="text-align: right;">Page 68</p> <p>1 as well?</p> <p>2 A I assume he was. He was right there with me. We</p> <p>3 were both scrambling fighting with him trying to get him</p> <p>4 under control. I know I was physically on top of him.</p> <p>5 Q Do you recall about how large a gentleman you</p> <p>6 were at the time?</p> <p>7 A Me?</p> <p>8 Q Yes.</p> <p>9 A I'm about the same as I am now, not quite as</p> <p>10 muscular. I'm a little more muscular now than I was back</p> <p>11 then.</p> <p>12 Q Just in terms of pure weight, do you recall how</p> <p>13 large a gentleman you were at the time?</p> <p>14 A I think I weighed about 220.</p> <p>15 Q After Mr. Medrano went limp, what was the next</p> <p>16 thing that happened?</p> <p>17 A Somebody handed me a set of Flex Cuffs.</p> <p>18 Q What did you do with the Flex Cuffs?</p> <p>19 A Took the Flex Cuffs, I put them on his right arm</p> <p>20 and I attached it to the metal cuff and hooked them behind</p> <p>21 his back.</p> <p>22 Q Did you attach it to the cuff that was already</p> <p>23 around his left wrist or did you attach it to the free</p> <p>24 cuff?</p> <p>25 A I attached it to the free cuff.</p>

17 (Pages 65 to 68)

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<p style="text-align: right;">Page 85</p> <p>1 A He was in the same position I had left him in.</p> <p>2 Sams had his hand pulled back behind his back and his</p> <p>3 pistol screwed in his head.</p> <p>4 Q What was it about him being in that position that</p> <p>5 led you to believe that he was not under control?</p> <p>6 A He wasn't handcuffed and he wasn't secured and I</p> <p>7 didn't shake him down for weapons.</p> <p>8 Q So, you wouldn't believe that he was under</p> <p>9 control until he was handcuffed and had been searched for</p> <p>10 weapons?</p> <p>11 A Correct.</p> <p>12 Q Do you know whether or not Deputy Sams had</p> <p>13 ordered Mr. Medrano to the floor while you were out of the</p> <p>14 room?</p> <p>15 A I don't know. I was only out of the room for a</p> <p>16 matter of minutes.</p> <p>17 Q Was Mr. Medrano resisting Deputy Sams in any way</p> <p>18 before you jumped on his back?</p> <p>19 MR. GAMBILL: Calls for speculation.</p> <p>20 A I don't know.</p> <p>21 Q (By Mr. Olson) Did you observe Mr. Medrano</p> <p>22 resisting Deputy Sams in any way before you jumped on his</p> <p>23 back?</p> <p>24 A He wasn't complying with any of our commands.</p> <p>25 What he did with Sams, I don't know. Like I said, I just</p>	<p style="text-align: right;">Page 87</p> <p>1 the floor.</p> <p>2 A Uh-huh.</p> <p>3 Q Did you give him commands in that interval?</p> <p>4 A No.</p> <p>5 MR. OLSON: Can we take about two minutes?</p> <p>6 (Break.)</p> <p>7 (Petruska Exhibit No. 4 marked.)</p> <p>8 Q (By Mr. Olson) Sir, this is -- what we've handed</p> <p>9 you is what's just been marked as Exhibit 4. And I'll let</p> <p>10 you know that this is a partial transcript of the</p> <p>11 audiotape that was made of the incident on August 11th --</p> <p>12 A Okay.</p> <p>13 Q -- that was prepared by an audio analyst that our</p> <p>14 firm hired.</p> <p>15 A Okay. I guess that's Mr. Barry G. Dickey.</p> <p>16 Q Yes, sir. That's the fellow.</p> <p>17 A Okay.</p> <p>18 Q And I would like to ask you, if you could, sir,</p> <p>19 to follow along on the transcript as I play the audiotape</p> <p>20 and then I'm going to ask you a few questions about this.</p> <p>21 Is that all right?</p> <p>22 A Okay. Who is GI 1/2? Do you know?</p> <p>23 Q Well, that's one of the things that we are going</p> <p>24 to ask you.</p> <p>25 A Okay.</p>
<p style="text-align: right;">Page 86</p> <p>1 had Sams hold his arm and he screwed his pistol in the</p> <p>2 back of his head till I came back. Did Sams order him to</p> <p>3 the ground? I don't know.</p> <p>4 Q Did you observe him not comply with anything that</p> <p>5 Deputy Sams told him to do?</p> <p>6 A No.</p> <p>7 Q Did you observe him resisting Deputy Sams?</p> <p>8 A No.</p> <p>9 Q Which commands before you jumped on his back was</p> <p>10 he not complying with?</p> <p>11 A My initial command to get down on the ground.</p> <p>12 Q After you had Mr. Medrano kneeling down on the</p> <p>13 bed --</p> <p>14 A Uh-huh.</p> <p>15 Q -- and before you jumped on his back --</p> <p>16 A Uh-huh.</p> <p>17 Q -- were there any commands of yours that he</p> <p>18 disobeyed?</p> <p>19 A All of my commands.</p> <p>20 Q Which ones?</p> <p>21 A From the very beginning.</p> <p>22 Q I'm sorry. Just limiting it to when you had</p> <p>23 gotten him down on his knees on the bed --</p> <p>24 A Uh-huh.</p> <p>25 Q -- and then when you returned and got him down to</p>	<p style="text-align: right;">Page 88</p> <p>1 Q Is that all right?</p> <p>2 A Sure.</p> <p>3 MR. SELBE: I think it's Gunman 1 and 2.</p> <p>4 THE WITNESS: Is that what it is?</p> <p>5 MS. WARD: Yeah.</p> <p>6 Q (By Mr. Olson) In the key on Page 4 we have</p> <p>7 attempted to identify them as CI --</p> <p>8 A Oh, okay.</p> <p>9 Q -- confidential informant.</p> <p>10 A See, all you had to do is tell me to turn to</p> <p>11 Page 4. I wouldn't have looked so stupid.</p> <p>12 Q All right, sir. If you could get back to Page 1</p> <p>13 with me.</p> <p>14 A Okay. Go ahead.</p> <p>15 (Audiotape playing.)</p> <p>16 Q (By Mr. Olson) Sir, would you agree with me that</p> <p>17 the person labeled CI throughout the transcript is Gary</p> <p>18 Bordelon?</p> <p>19 A Sounds like him.</p> <p>20 Q Did you recognize your voice anywhere on that</p> <p>21 tape?</p> <p>22 A A few places, yeah. Mr. Lopez keeps yelling at</p> <p>23 me "police officer" and I yell back, "We're police</p> <p>24 officers."</p> <p>25 Q Sir, let me -- if you could look on Page 2 for</p>

22 (Pages 85 to 88)

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